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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

NISHAT KOUSAR,

Plaintiff,

v.

ROBERT MUELLER, III, Director,
 Federal Bureau of Investigations;
 GREGORY CHRISTIAN, Acting Director,
 Nebraska Service Center, USCIS;
 EMILIO GONZALES, Director, U.S.
 Citizenship and Immigration Services (USCIS);
 MICHAEL CHERTOFF, Secretary,
 Department of Homeland Security;
 PAUL CLEMENT, Acting Attorney General,
 Department of Justice;
 TERRY RICE, San Francisco Field Office
 Director, USCIS;

Defendants.

No. C 07-5221 EDL

ANSWER

Defendants hereby submit their answer to Plaintiff's Complaint for Writ of Mandamus.

INTRODUCTION

1. Paragraph One consists of Plaintiff's characterizations of the lawsuit for which no answer is necessary; however, to the extent a response is deemed to be required, the allegations in Paragraph One are denied.

2. Defendants deny the allegations in Paragraph Two.

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1 3. Defendants admit the allegations in Paragraph Three; however, USCIS records indicate that
2 Plaintiff's application to adjust status was received on January 5, 2004.

3 4. Defendants admit the allegations in Paragraph Four; however, Defendants deny the
4 allegation that they have "failed to adjudicate".

5 **PARTIES**

6 5. Defendants admit the allegations in Paragraph Five.

7 6. Defendants admit the allegations in Paragraph Six.

8 7. Defendants admit the allegations in Paragraph Seven with the exception that the Director of
9 the Nebraska Service Center is F. Gerard Heinauer.

10 7. Defendants admit the allegations in Paragraph Eight.

11 9. Defendants admit the allegations in Paragraph Nine.

12 10. Defendants admit the allegations in Paragraph Ten.

13 11. Defendants admit the allegations in Paragraph Eleven.

14 **JURISDICTION**

15 12. Paragraph Twelve consists of Plaintiff's allegation regarding jurisdiction, to which no
16 responsive pleading is required; however, to the extent a responsive pleading is deemed necessary,
17 Defendants deny the allegations in this paragraph.

18 13. Paragraph Thirteen consists of Plaintiff's allegation regarding jurisdiction, to which no
19 responsive pleading is required.

20 14. Paragraph Fourteen consists of Plaintiff's allegation regarding costs and attorney fees, to
21 which no responsive pleading is required.

22 **VENUE**

23 15. Paragraph Fifteen consists of Plaintiff's allegations regarding venue, to which no
24 responsive pleading is required.

25 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

26 16. Defendants deny the allegations in this paragraph.

27 **FACTUAL ALLEGATIONS**

28 17. Defendants admit the allegations in Paragraph Seventeen. Plaintiff's current alien

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1 registration number is A 95 410 680. Her old alien registration number was consolidated with her
2 current one.

3 18. Defendants admit the allegations in Paragraph Eighteen.

4 19. Defendants are without sufficient information to admit or deny the allegations in
5 Paragraph Nineteen.

6 20. Defendants are without sufficient information to admit or deny the allegations in
7 Paragraph Twenty.

8 21. Defendants are without sufficient information to admit or deny the allegations in
9 Paragraph Twenty-One.

10 22. Defendants are without sufficient information to admit or deny the allegations in
11 Paragraph Twenty-Two.

12 23. Defendants are without sufficient information to admit or deny the allegations in
13 Paragraph Twenty-Three.

14 24. Defendants are without sufficient information to admit or deny the allegations in
15 Paragraph Twenty-Four.

16 25. Defendants are without sufficient information to admit or deny the allegations in
17 Paragraph Twenty-Five.

18 26. Defendants are without sufficient information to admit or deny the allegations in
19 Paragraph Twenty-Six.

20 27. Defendants admit the first sentence in Paragraph Twenty-Seven; however, Defendants are
21 without sufficient information to admit or deny the remaining allegations.

22 28. Defendants deny the allegations in Paragraph Twenty-Eight.

23 **CLAIMS**

24 29. Paragraph Twenty-Nine consist solely of Plaintiff's characterizations of lawsuit for which
25 no answer is necessary, but insofar as answers may be deemed necessary, the allegations in
26 Paragraph Twenty-Nine are denied.

27 30. Paragraph Thirty consist solely of Plaintiff's characterizations of lawsuit for which no
28 answer is necessary, but insofar as answers may be deemed necessary, the allegations in Paragraph

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1 Thirty are denied.

2 31. Paragraph Thirty-One consist solely of Plaintiff's characterizations of lawsuit for which no
3 answer is necessary, but insofar as answers may be deemed necessary, the allegations in Paragraph
4 Thirty-One are denied.

5 32. Defendants deny the allegations in Paragraph Thirty.

6 33. Paragraph Thirty-Three consist solely of Plaintiff's characterizations of lawsuit for which
7 no answer is necessary, but insofar as answers may be deemed necessary, the allegations in
8 Paragraph Thirty-Three are denied.

9 34. The remaining allegations consists of Plaintiff's prayer for relief, to which no admission or
10 denial is required; to the extent a responsive pleading is deemed to be required, Defendants deny
11 these paragraphs.

12 **FIRST AFFIRMATIVE DEFENSE**

13 The court lacks jurisdiction over the subject matter of this action.

14 **SECOND AFFIRMATIVE DEFENSE**

15 The Complaint fails to state a claim against the Defendants upon which relief can be granted.

16 **THIRD AFFIRMATIVE DEFENSE**

17 No acts or omissions by the United States or its employees were the proximate cause of any
18 injury or damages to the Plaintiff.

19 **FOURTH AFFIRMATIVE DEFENSE**

20 At all times alleged in the complaint, Defendants were acting with good faith, with
21 justification, and pursuant to authority.

22 **FIFTH AFFIRMATIVE DEFENSE**

23 Defendants are processing the application referred to in the Complaint to the extent possible at
24 this time. Accordingly, no relief as prayed for is warranted.

25 WHEREFORE, Defendants pray for relief as follows:

26 ///

27 ///

1 That judgment be entered for Defendants and against Plaintiff, dismissing Plaintiff's
2 Complaint with prejudice; that Plaintiff takes nothing; and that the Court grant such further relief
3 as it deems just and proper under the circumstances.

4 Dated: December 28, 2007

Respectfully submitted,

5 SCOTT N. SCHOOLS
6 United States Attorney

7 _____/s/
8 ILA C. DEISS
9 Assistant United States Attorney
10 Attorneys for Defendants
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